

**OPINION  
42-76**

August 13, 1942 (OPINION)

OFFICES

RE: Incompatibility

I have your letter of August 7th inquiring whether a person who is a justice of the peace and who has recently accepted an appointment as deputy sheriff could hold both of these offices at the same time and whether he could act in cases in which he did not serve the papers.

In my opinion, if a person who is justice of the peace in the county accepts an appointment as deputy sheriff it would be necessary for him to resign as justice of the peace. It is apparent that the two offices are incompatible and that this man could not do his duty as required by each of such offices at the same time. In other words, he could not act as deputy sheriff and still do his duty as justice of the peace, or visa versa. It may be true that he would disqualify himself to act as justice of the peace in any case in which he had played any part by reason of his office of deputy sheriff, but that would not be sufficient to permit him to hold both of these offices.

In other words, it is my opinion that one man could not hold both of these offices at one and the same time since they are incompatible.

ALVIN C. STRUTZ  
Attorney General